

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK

---

In re:

TLC HEALTH NETWORK,

Debtor.

---

Chapter 11

Case No. 13-13294-CLB

**LIMITED OBJECTION OF THE UNITED STATES TRUSTEE  
TO DEBTOR'S MOTION TO ALLOW DEBTOR TO CONTINUE  
TO USE ITS PREPETITION BANK ACCOUNTS**

The United States Trustee, by and through his undersigned counsel, hereby objects, on a limited basis, to the Debtor's Motion to Allow Debtor to Continue to Use Its Prepetition Bank Accounts (the "Motion", Docket No. 12). In support of this Limited Objection, the United States Trustee states as follows:

1. Section 345(b) of the United States Bankruptcy Code (the "Code") requires that monies of an estate be deposited in an account insured or guaranteed by the United States, by a department or agency or instrumentality of the United States or backed by the full faith and credit of the United States, unless a bond is posted or the account is collateralized. In other words, pursuant to section 345(b) of the Code, a trustee must maintain accounts where the funds are fully insured by the Federal Deposit Insurance Company (the "FDIC"), or the account must be collateralized or bonded.

2. The purpose of this section "is to make sure that the funds of a bankrupt that are obligated to creditors are invested prudently and safely with the eventual goal of being able to satisfy all claims against the bankrupt estate." H.R. Rep. No. 103-384, 103<sup>rd</sup> Cong., 2<sup>nd</sup> Sess 24 (Oct. 4, 1994).

3. Accounts insured by the FDIC are covered up to \$250,000 per account. *See* <http://www.fdic.gov/deposit/deposits/dis/>.

4. Here, the Debtor seeks to maintain its existing bank accounts, which are insured only up to \$250,000.00.

5. The Debtor represents that two (2) of its seventeen (17) bank accounts, its Operating Account and its Payroll Account, shall at times exceed the FDIC's \$250,000 per account coverage limit. (*See*, Motion ¶¶ 10-13).

6. The United States Trustee does not object to the Debtor continuing to use its existing bank accounts, provided the Debtor causes all such bank accounts to be designated debtor-in-possession accounts.

7. However, since the bank accounts, or at least the Operating Account and the Payroll Account, may not be properly insured as required by the Code, the United States Trustee objects to the Motion on the limited basis that the Debtor seeks to maintain the bank accounts without posting a bond or collateral.

8. With respect to the bank accounts *other* than the Operating Account and the Payroll Account, the United States Trustee requests that the Debtor be required to immediately notify the Office of the United States Trustee if any account exceeds \$250,000 and to promptly obtain sufficient bonding for any such account.

9. With respect to the Operating Account and the Payroll Account, the United States Trustee requests that a bond or collateral be posted to ensure that the Operating Account and the Payroll Account are protected to their full level.

10. The Debtor offers no reason why the Operating Account or Payroll Account cannot be adequately collateralized as required by section 345(b). Rather, the Debtor simply

explains why it cannot change accounts. The United States Trustee, though, does not object to the Debtor keeping its Operating Account and Payroll Account in place. The United States Trustee does object to these accounts not being properly collateralized. If the Debtor needs a reasonable amount of time (such as 30 or 60 days) to accomplish this, the United States Trustee would have no objection to a request for that time.

WHEREFORE, the United States Trustee respectfully requests that the Court deny the Debtor's request to maintain bank accounts without being required to secure a bond or appropriate collateral, and for such other and further relief as the Court deems just and proper.

Dated: December 20, 2013  
Buffalo, New York

Respectfully submitted,

WILLIAM K. HARRINGTON  
UNITED STATES TRUSTEE, REGION 2

By: /s/ Joseph W. Allen  
Joseph W. Allen, Esq.  
Assistant United States Trustee  
Office of the United States Trustee  
Olympic Towers  
300 Pearl Street, Suite 401  
Buffalo, New York 14202  
Telephone: (716) 551-5541